

ACTION REPORT
STATE WATER CONTROL BOARD MEETING
TUESDAY, SEPTEMBER 25, 2007

Tuesday, September 25, 2007
House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

All Board Members Present

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| I. Minutes (June 27 and July 30, 2007) | Approved Minutes |
|
 | |
| II. Final Regulations
Amendments to the VPDES Permit Program Regulation to Conform To State Statute Changes Regarding Landfills
Amendments to the VPDES Permit Program Regulation to Conform To Federal Regulation Changes
Amendments to the VPDES and VPA Permit Program Regulations and SCAT and Fee Regulations Re: Biosolids | Adopted Regulation
Adopted Regulation
Adopted Regulation |
|
 | |
| III. Proposed Regulations
General VPDES Permit for Concrete Products Facilities | Approved for Comment |
|
 | |
| IV. Permits
Wintergreen Stoney Creek Sewage Treatment Plant (Nelson Co.)
Cumberland County's Cobb Creek Reservoir – VWP Permit | Issued Permit
Issued Permit with Amendments |
|
 | |
| V. Significant Noncompliance Report | Received Report |
|
 | |
| VI. Penalty Matrix Presentation | Received Report |
|
 | |
| VII. Consent Special Orders (VPA)
Northern Regional Office
Bristow Manor Limited Partnership (Prince William Co.)
Valley Regional Office
Bowman Apple Products, Inc. (Shenandoah Co.) | Approved Orders |
|
 | |
| VIII. Consent Special Orders (VPDES)
Valley Regional Office
Aqua Lake Holiday Utilities, Inc. (Frederick Co.)
South Central Regional Office
Town of South Boston (Halifax Co.)
Northern Regional Office
Aqua Utilities, Inc. (Caroline Co.)
Smith-Midland, Inc. (Fauquier Co.)
Spotsylvania County
West Central Regional Office
B&J Enterprises L.C./Blacksburg Country Club STP
Bassett Mirror Company, Inc. (Henry Co.) | Approved Orders |

Southwest Regional Office
Turman Sawmill, Inc. (Carroll Co.)
Piedmont Regional Office
Henrico County
Powhatan County Dutoy Creek WWTP
Omega Protein, Inc. (Northumberland Co.)
Hampton Roads Sanitation District Sanitary Sewer Overflows

- | | | |
|-------------|---------------------------------------------------------------------------------------|-------------------------|
| IX. | Consent Special Orders (VWP and Others) | Approved Orders |
| | Piedmont Regional Office | |
| | J. E. Liesfeld, Jr. (Henrico Co.) | |
| | Valley Regional Office | |
| | Kernstown Commons Commercial Development Project/Orange Partners, LLC (Frederick Co.) | |
| | Lexington Golf and Country Club, Inc. (Rockbridge Co.) | |
|
 | | |
| X. | Consent Special Orders (Oil) | Approved Orders |
| | West Central Regional Office | |
| | F. L. Hatcher and Son, Inc. (Roanoke) | |
| | Huff Petroleum Co., Inc., etc. (Roanoke, Montgomery and Pulaski Counties) | |
|
 | | |
| XI. | Public Forum | No Speakers |
|
 | | |
| XII. | Other Business | |
| | Revolving Loan Fund | Approved for
Comment |
| | Update - SIL Clean Water WWTP (Timberville, Rockingham Co.) | Received Report |
| | Division Director's Report | Received Report |
| | Briefing – Clean Water Act 316(a) Requirements and Implementation | Received Report |
| | Future Meetings (October 25 and December 4-5) | |

Amendments to the VPDES Permit Regulation, 9 VAC 25-31: The purpose of this agenda item is to request that the Board adopt amendments to the VPDES Permit Regulation, 9 VAC 25-31. The 2006 General Assembly enacted legislation requiring applications for new or modified VPDES permits, both individual and general, for new municipal solid waste landfills that discharge stormwater directly or indirectly into a local watershed protection district, that was established and designated as such by city ordinance prior to January 1, 2006, to contain a certification from the local governing body that the discharge is consistent with the city's ordinance that established and designated the local watershed protection district in order for the application to be considered complete. Section 9 VAC 25-31-120, "Storm water discharges." of the VPDES Permit Regulation has been amended to add this requirement. A copy of the amended section of the regulation is attached to this memorandum.

Final Exempt regulatory action pertaining to biosolids (treated sewage sludge), to include amendments to the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32-10 et seq.), amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-10 et seq.), amendments to the Sewage Collection and Treatment (SCAT) Regulations (9VAC25-790-10 et seq.) and amendments to the Fees for Permits and Certificates (Fee) regulation (9VAC25-20-10 et seq.): The staff intends to bring to the Board, at the

September 25th meeting, four (4) requests to amend regulations that pertain to the regulation of sewage sludge in the Commonwealth. These changes are being made solely as a result of the following legislative changes included in the 2005 and 2007 Acts of Assembly:

- I. HB2802 and S1339** (2007 identical acts) amended §62.1-44.19:3 and repealed §§32.1-164.2 through 32.1-164.7 of the Code of Virginia. These acts transfer oversight of the regulatory program for the land application of sewage sludge from the Department of Health to the Department of Environmental Quality, and require addition of several other regulatory provisions pertaining to:
 - a. permit requirements
 - b. land application of septage
 - c. landowner consent
 - d. local government notification
 - e. nutrient management plan requirements
 - f. public comment procedures
 - g. fees and fund management
 - h. financial assurance
 - i. compliance inspections
 - j. certification and training programs
 - k. permit modifications involving addition of additional land application area
 - II. S1300** (2007) amended §62.1-44.19:3 of the Code of Virginia. This act specifies that a locality may by ordinance require that a special exception or a special use permit be obtained to begin the storage of sewage sludge on any property in its jurisdiction. However, a locality shall not require a special exception or a special use permit to begin the storage of sewage sludge when such sewage sludge will be applied solely to the farm on which the storage facility is located.
 - III. S1313** (2007) amended §62.1-44.19:3 of the Code of Virginia. This act specifies that no application for a permit or variance to authorize the storage of sewage sludge shall be complete unless it contains certification from the governing body of the locality in which the sewage sludge is to be stored that the storage site is consistent with all applicable ordinances. Localities, as part of their zoning ordinances, may designate or reasonably restrict the storage of sewage sludge based on criteria directly related to the public health, safety, and welfare of its citizens and the environment. Such ordinances shall not restrict the storage of sewage sludge on a farm as long as such sludge is being stored (i) solely for land application on that farm and (ii) for a period no longer than 45 days.
- (The following actions from the 2005 Acts of Assembly had not been incorporated into the VPDES regulation, and are being included at this time.)**
- IV. HB 2197** (2005) amended §62.1-44.19:3 of the Code of Virginia. This act requires a person holding a permit to apply sewage sludge to the land to give notice to the local government at least 100 days prior to applying the sewage sludge.
 - V. HB 2624** (2005) amended §62.1-44.19:3 of the Code of Virginia. This act provides that surface incorporation into the soil of sewage sludge applied to cropland may be required when practicable and compatible with a soil conservation plan meeting the standards and specifications of the U.S. Department of Agriculture Natural Resources Conservation Service. This bill also directed the Board of Health to develop regulations specifying and providing for extended buffers to be employed for application of sewage sludge (i) to hay, pasture, and forestland, or (ii) to croplands where surface incorporation is not practicable or is incompatible with a soil conservation plan. The extended buffers may be included by the Department as site specific permit conditions.
 - VI. HB 2805** (2005) amended §62.1-44.19:3 of the Code of Virginia. This act directs that sewage sludge be treated to meet standards for land application as required by Board of Health regulation

prior to delivery at the land application site. This bill prohibits any person from altering the composition of sewage sludge at the site where the sewage sludge is being applied. However, the addition of lime or deodorants to sewage sludge that has been treated to meet land application standards shall not constitute alteration of the composition.

The Department of Health administered the permitting program for biosolids with the Biosolids Use Regulation (BUR) (12VAC5-585-10 et seq.). This is a comprehensive regulation that covers permitting requirements for land application, technical requirements for treatment, handling and storage, and procedures for the collection of established fees. As the State Water Control Board administers separate regulations that address these topics, the transfer of existing regulatory requirements is proposed to be accomplished by transferring language from the BUR into the VPA, VPDES, SCAT, and Fee regulations as appropriate.

The proposed regulatory actions are exempt from Article 2 of the APA (§2.2-4006) regarding public participation, as the changes being sought are pursuant only to those changes required by modifications to the Code of Virginia. Certain procedural (not substantive) changes are also proposed that address DEQ or State Water Control Board procedures that differ from those of VDH or the Board of Health.

DEQ staff will also revise a guidance document used by VDH, the “Biosolids Fee Guidance Manual”, to reflect DEQ procedures.

All regulatory changes included in this recommendation would become effective on January 1, 2008, as prescribed by Enactment Clause No. 2 of HB 2802 and SB1339.

1. Amendments to the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.)

This is a request to modify the Virginia Pollution Abatement (VPA) permit regulation. This permit regulation authorizes issuance of permits for activities that involve the management of pollutants that may impact state waters by means other than point source discharges. Land application of biosolids (sewage sludge that has met specific treatment requirements) is one of those activities. Prior to the 2007 Acts of Assembly, VPA permits were typically only issued for land application of industrial sludges, rather than municipal biosolids.

The major revisions include the following:

- Sections 250-700. Addition of a new Part VI titled “Biosolids Program” taken from the BUR - It includes five (5) articles titled as follows:
 - I. Definitions and Procedures
 - II. Operational and Monitoring Requirements
 - III. Biosolids Use Standards and Practices
 - IV. Permit Application Information for Biosolids Use
 - V. Certification of Land Applicators (includes amendments to the BUR submitted to be published as final regulations in the Virginia Register on August 20, 2007, and thus effective prior to January 1, 2008.)
- Section 60. Addition of requirements regarding permit application and local government certification requirements for sewage sludge storage facilities, and written consent from landowners of land application sites (statutory change)
- Section 140. Addition of language regarding notification of local government, public meeting for land application and disposal sites and notification of adjacent property owners for addition of new land application sites (statutory change)
- Section 210. Language contained in the BUR regarding causes for termination of permits for biosolids use activities were more stringent in some cases or different than those already contained in the VPA Permit Regulation, thus requirements were revised.
- Section 240. The conditions under which “minor modifications” to a permit may be made are now followed by a statement specifying that applications to increase the acreage by greater than

50% requires the same public notice and public hearing requirements as a new permit application. (statutory change)

- Section 295. Language transferred from the BUR that describes the Biosolids Use Regulation Advisory Committee was added, and the procedures associated with committee activity were modified to be consistent with those of a DEQ Technical Advisory Committee.
- Section 760. Language was added describing the transition of permits from the Department of Health to the Department of Environmental Quality.

2. Amendments to the Virginia Pollutant Discharge Elimination System (VPDES) Permit (9 VAC 25-31-10 et seq.)

This is a request to amend the VPDES permit regulation. The VPDES permit regulation provides for permits issued to facilities that discharge to state waters also include provisions for that same facility to manage (including land applying) the biosolids generated at the facility.

The major revisions include the following:

- Section 100. Addition of requirements regarding permit application and local government certification requirements (statutory change)
- Section 100. Addition of language requiring evidence of financial assurance from applicants proposing to land apply biosolids (statutory change)
- Section 290. Addition of language regarding notification of local government, public meeting for land application and disposal sites and notification of adjacent property owners for addition of new land application sites (statutory change)
- Section 390. HB 2802 requires that permit modifications resulting from requests to add 50% or more land application acreage to the permit be treated the same as a new permit application for the purposes of public notice and public hearings. Existing VPDES regulation outlines provisions for addition of land application acreage after permit issuance through a “land application plan”. This language was modified to align with amendments to State Water Control Law introduced by HB 2802. (statutory change)
- Section 475. Language was added regarding authority of localities with local sewage sludge monitoring programs. (includes amendments to the BUR expected to be final and effective prior to January 1, 2008.)
- Section 485. A new section was inserted entitled “Requirements for permittees who land apply sewage sludge” and subsections A through E to comply with amendments to SWCL introduced by HB 2197 (2005) and HB 2802 (2007). This section contains language regarding certification for land applicators of sewage sludge, permittee reporting of complaints to DEQ, permittee notification of DEQ and local governments prior to commencing land application activities, and written evidence of financial responsibility from permittees who are permitted to land apply sewage sludge. (statutory change)
- Section 505. A new section was inserted entitled “Universal requirements for land application operations” and subsections A through E to comply with amendments to SWCL introduced by HB’s 2624 and 2805 (2005), and HB 2802 and SB 1300 (2007). This section contains language regarding nutrient management plan requirements for land application of sewage sludge, biosolids treatment prior to delivery and any alteration following delivery to a land application site, Board authorization for specific sewage sludge research projects, incorporation of surface applied sewage sludge to reduce excessive odors; extended buffer zone setbacks and options for the DEQ to impose more stringent requirements for sewage sludge land application sites, and requirements for authorization of sewage sludge storage from the DEQ. (statutory changes as well as inclusion of amendments to the BUR expected to be final and effective prior to January 1, 2008)

3. Amendments to the Sewage Collection and Treatment Regulations (SCAT) Permit (9 VAC 25-790-10 et seq.)

This is a request to amend the SCAT regulation. The SCAT technical regulation provides for control of sewerage and sewage treatment works, and staff recommends that technical design provisions in the BUR relating to routine storage or treatment of biosolids be located in the SCAT technical regulation rather than the VPA or VPDES permit regulation. In addition, numerous references to the BUR exist in the SCAT regulation, and these have been replaced with the appropriate new references to the VPA or VPDES regulations.

The major revisions include the following:

- General. Definitions and several other sections were modified as necessary to not exclude biosolids facilities from the SCAT regulation.
- General. Design criteria included in the BUR were transferred to the SCAT regulation in several sections.
- Section 240. Language was added that recognizes Department of Health approval of projects prior to January 1, 2008.
- Note: Requirements for temporary field storage of biosolids were not moved to the SCAT regulation, as this activity is more closely related to land application activities described in the VPA or VPDES regulation.

4. Amendments to the Fees for Permits and Certificates (Fee) regulation (9 VAC 25-20-10 et seq.)

This is a request to amend the Fee regulation. The Fee regulation establishes a fee assessment and collection system to recover costs associated with State Water Control Board permitting programs. The fee system established by the Department of Health to recover costs associated with land application of biosolids was included in the BUR, and the appropriate sections and language were transferred to the Fee regulation.

The major revisions include the following:

- Section 20. Language was added furthering the purpose of the regulation to apply to persons land applying sewage sludge.
- Section 50. Language was added exempting permits associated solely with research projects from application, modification, or land application fees. BUR provisions previously exempted all permit requirements for research projects, including fees. This section also retains a BUR provision that exempts land application of “exceptional quality biosolids” from fees.
- Section 90. This section specifies which fees will be deposited into the Sludge Management Fund rather than the State Water Control Board Permit Program Fund.
- Section 110. For VPDES, permit application fees are tiered based on flow. This section adds a requirement for one category of municipal dischargers (whose original fee was less than \$5000), to be \$5000 if the original issuance of the VPDES permit includes land application of sewage sludge. The permit issuance fee for a VPA municipal sludge facility was reduced from \$7500 to \$5000. (statutory change)
- Section 120. This section adds language specifying that the fee for modification of a VPDES permit due to changes relating to land application or land disposal of sewage sludge shall be \$1,000, and reduces the fee for a major modification of a VPA permit for a municipal sludge operation from \$3750 to \$1000. (statutory change)
- Section 146-149. These sections are part of new Part IV, Sewage Sludge Fees and Reimbursable Costs, which were transferred directly from the BUR and describe requirements for the fees associated with land application of biosolids, records and reporting required of land appliers, and reimbursement to localities with local monitors. Language in the BUR that described exclusively internal agency procedures associated with fee collection and reimbursement were omitted from the Fee regulation and will be transferred to the Biosolids Fee Guidance Manual.

Reissuance of VPDES Permit No. VA0074047, Wintergreen Stoney Creek STP - Nelson County:

The purpose of this agenda item is to determine the appropriate action regarding the reissuance of VPDES Permit No. VA0074047.

The permittee, Wintergreen Valley Utility Company, L.P., has applied for reissuance of their permit to discharge treated sewage wastewater from the Wintergreen Stoney Creek STP, which serves the residences and establishments associated with the Stoney Creek resort community. On December 5, 2006, the permittee submitted an application package for the reissuance of this permit. In addition to the existing 0.040 MGD permitted and 0.065 MGD design flow tiers, the permittee requested limits for a 0.120 MGD discharge. This facility discharges to Allen Creek, approximately 50 feet upstream of its confluence with the South Fork Rockfish River, and has been in existence for approximately 20 years. The application was deemed complete on December 13, 2006. The public notice for the proposed reissuance was published in the Nelson County Times on March 22 and March 29, 2007. Hearing requests were received, and a public notice for the hearing was published in the Nelson County Times on June 14 and June 21, 2007.

During the public comment period of the draft permit, the agency received letters and e-mails from five citizens, two of which requested a public hearing. DEQ also received comments from three citizens, one member of the Nelson County Board of Supervisors, and the applicant during the public hearing notice period. On May 8, 2007, a meeting was held at the Wintergreen Real Estate Building to provide information to the public, to answer questions, and to listen to concerns. One citizen plus DEQ staff attended the meeting.

Public Hearing

A public hearing was held on July 26, 2007, with nine citizens in attendance, plus representatives of the applicant. Mr. Shelton Miles III served as the hearing officer, and three citizens provided oral comments. The hearing record comment period closed on August 10, 2007.

Summary of Public Comments and Questions and Agency Responses

Comments received regarding the permit reissuance may be summarized into the following categories:

1. That the South Fork Rockfish River has been listed as an impaired waterway, and discharging wastewater into the river will not help solve this problem.
2. That the facility may not be capable of ensuring the wastewater will always be treated properly before it is discharged.
3. That citizens may not feel safe to recreate or eat fish caught in the river if the discharge is allowed.
4. That an EPA environmental impact report should be completed prior to releasing wastewater into Allen Creek and the Rockfish River watershed.
5. That the owner should consider using their golf course for wastewater disposal.
6. That the owner should make arrangements for local businesses and residencies outside the resort in Nellysford to utilize the STP where the collection system allows for such.
7. That DEQ should facilitate conversations between the STP owner and Nelson County regarding the county paying for extra STP capacity for use by local citizens and businesses.
8. That the owner previously made representations to the county Board of Supervisors that the existing STP capacity is sufficient to serve current and planned building projects, and an expansion of the permitted discharge flow and service area should be addressed by the county prior to DEQ authorizing a VPDES permit with a 0.120 MGD flow tier.
9. That Draper-Aden has been commissioned by the Nelson County Service Authority to identify potable water resources, and one potential source includes the South Fork Rockfish River.
10. That stream flows have decreased in recent years, and past flow determinations should not be used to extrapolate future conditions.
11. That Nellysford experiences extreme swings in climate with heavy rains and extended droughts, and these conditions may impact the assimilative capacity of the receiving stream.

12. That DEQ cannot reliably extrapolate the impact to the South Fork Rockfish River by planned developments that will rely on septic systems, and therefore, the 0.120 MGD expansion flow tier should not be permitted until problems that may arise as a result of these developments are more foreseeable.
13. That the permitted increase in discharge flow will consume available stream assimilative capacity, and may even allow the STP owner to sell pollution credits.
14. That expanding the STP and service area will allow developers to pick and choose who receives sewer service, and will support development, allowing builders to cite available capacity when submitting their plans for local government consideration.
15. That the proposed permit should be reissued based on either the permitted flow tier of 0.040 MGD or the design flow tier of 0.065 MGD.

Questions received regarding the permit reissuance may be summarized into the following categories:

1. What is the current permitted average design flow of the STP?
2. Who determines if the permit allows for an expansion of the discharge rate, and does anyone, either local government or citizens, have control or input of significance in the process?
3. Would DEQ have the authority to deny an application to increase the amount of wastewater to be treated from an existing facility if the agency were to determine that downstream water quality will be protected?

The staff has forwarded these comments and questions to the permittee and the county for their consideration.

DEQ responses to the public comments are provided below.

1. Public Comment: This section of the Rockfish has been listed as an impaired waterway by the Commonwealth. I do not know the current state of the impairment, but I know that sedimentation has been a long-term problem due to significant stream bank erosion on both forks. In fact, the Commonwealth recently completed a \$250,000 project on the South Fork of the Rockfish to remediate erosion in one limited section. The success of that remediation is, as yet, undetermined, and the remediated section represents only a small part of the problem on both forks. Problems on the North Fork Rockfish River have not been addressed, and sections there contribute to, probably, over three-quarters of the sedimentation problem. Additionally, the Rockfish has been found at times to contain fecal coliform, probably due to cattle in the river, and to septic systems, which may fail during floods. Discharging wastewater into this river will not help solve the current problems. I believe the Commonwealth should identify and remedy existing problems first, and perform an extensive study of how the new wastewater discharge will affect the Rockfish River before granting a discharge permit.

DEQ Response: Wintergreen Stoney Creek STP is an existing facility, which discharges to the South Fork Rockfish River. This facility serves the residences and establishments associated with the Stoney Creek resort community. The facility was brought online in 1988 and has been operating under a VPDES permit since that time. This permit requires that the facility maintain all downstream Water Quality Standards and designated aquatic and recreational uses. The proposed permit action is for a reissuance of the existing permit coverage.

The South Fork, North Fork, and main-stem Rockfish Rivers were recently designated as impaired based on elevated bacteria levels. A Total Maximum Daily Load (TMDL) corrective action plan has not yet been established to address these impairments, but will be planned for future development and implementation. Web address with detailed information regarding the impairments in the South Fork and mainstem Rockfish Rivers are:

http://gisweb.deq.virginia.gov/deqims/factsheets2006/adbfactsheeta.cfm?cycle=2006&id305b=VAV-H15R_RFS01A00;

http://gisweb.deq.virginia.gov/deqims/factsheets2006/adbfactsheeta.cfm?cycle=2006&id305b=VAV-H16R_RKF02A00.

Also, bacteria monitoring is currently being conducted on the Rockfish Rivers by a citizen monitoring group, which is coordinated through DEQ staff member James Beckley: jebeckley@deq.virginia.gov.

The effluent from the Wintergreen Stoney Creek STP has not been identified as a contributor to the impaired status of these streams. The discharge is required to meet the Water Quality Standard for bacteria (measured as E. coli) prior to entering the stream (i.e., no benefit is given for available background flow).

The Rockfish Rivers are not designated by DEQ as impaired due to sedimentation, and this discharge is very unlikely to cause any sedimentation impairment. Based on other TMDL studies conducted within the Commonwealth, properly operating STPs have not been identified as significant problems or required to reduce the TSS in their discharges as part of the impaired stream corrective action plans.

2. Public Comment: I have not heard of Wintergreen Valley Utility Co. LP, the entity to whom the permit may be issued. I am concerned that their facility may not be capable of ensuring that the wastewater will always be treated properly before it is discharged. I am especially concerned about failures during floods, which occur with great regularity in Nelson County. Two years ago, a 10-inch rainfall did significant damage to a stream remediation project, which used the state-of-the-art Rosgen Method of stream bank erosion control. Similar storm events are the rule rather than the exception for Nelson County.

DEQ Response: Wintergreen Valley Utility Co. LP has been the owner and operator of this STP since its inception in 1988. Prior to actual construction, the design of this treatment facility was reviewed by the Virginia Department of Health. As part of the review, VDH was required to verify that the entire facility would be positioned above the 25-yr flood elevation, and all mechanical and electrical equipment subject to water damage would be positioned above the 100-yr flood level.

3. Public Comment: The Rockfish River is heavily used by residents and tourists for fishing, canoeing, kayaking, wading and swimming. It is one of the most precious resources of Nelson County. I hope that the Commonwealth will ascertain that any new commercial activity on the river will pose no health or environmental problems before permission is given to conduct that activity.

DEQ Response: This proposal is for the reissuance of an existing permit for a discharge that has been occurring since 1988. As part of every VPDES permit issuance, reissuance, and major modification, DEQ performs a thorough evaluation of the existing or proposed discharge and receiving stream. Documented stream impairments are considered during this evaluation, and permit limits are established to ensure that the discharge does not preclude downstream water quality from being improved such that it meets Water Quality Standard criteria.

4. Public Comment: We are strongly opposed to the release of "treated" wastewater being put into Allen Creek and in turn into the Rockfish River watershed. We are requesting that DEQ hold a public hearing on this matter to allow the concerned citizens of Nelson County an opportunity to have any and all of their questions answered on the issue and respond accordingly. For example, has there been an environmental impact report made on the effects of releasing wastewater into the Rockfish River's watershed?

DEQ Response: Environmental Impact Reports (EIRs) are only required for certain state and federal projects involving state and/or federal funds. This is necessary to ensure that government funds are not used to create undue harm to the environment or do anything contrary to environmental laws. As such, large state and federal projects require EIRs. There are also some "local" projects that utilize state and federal grants that may potentially require an environmental review, depending on the grant amount and project type.

For a VPDES permit for a public or private entity, the applicant is not required to complete an EIR. The permitting process itself, however, includes an environmental review. DEQ evaluates the available data for the receiving stream and completes a stream inspection as part of the development of permit limits for a discharge. Limitations are applied in the permit requiring the discharge to comply with all downstream Water Quality Standards, Water Quality Management Plan and Total Maximum Daily Load allocations, and the stream's designated aquatic and recreational uses (i.e., fishing, swimming, boating, etc.). Our review does not show that an EIR, outside of the permit evaluation, was required for this facility. Additional information regarding EIRs can be found on the DEQ website at: <http://www.deq.state.va.us/eir/>.

The Wintergreen Stoney Creek STP is an existing facility, which discharges to Allen Creek just upstream of its confluence with the South Fork Rockfish River. The proposed permit action is for a reissuance of the existing permit coverage. This facility serves the residences and establishments associated with the Stoney Creek resort community. The facility was brought online in 1988 and has been operating under a VPDES permit since that time. As part of every VPDES permit issuance, reissuance, and major modification, DEQ performs a thorough evaluation of the existing or proposed discharge and receiving stream. This permit requires that the facility comply with all applicable laws and regulations, including all downstream Water Quality Standards and designated aquatic and recreational uses (i.e., fishing, swimming, boating, etc.).

All domestic and municipal sewage treatment facilities are reviewed by DEQ for proper design prior to construction. This process was previously carried out by the Virginia Department of Health, who reviewed the design plans for this facility. The Sewage Collection and Treatment regulations (9 VAC 25-790) include the design requirements necessary for this type of facility. Properly designed and operated domestic wastewater treatment facilities are prevalent throughout the Commonwealth, and are well documented to clean and disinfect sewage such that the resultant effluent is clear water which may be safely discharged. This particular facility has a very good operating record.

5. Public Comment: I'm surprised that Wintergreen would consider dumping wastewater into the Rockfish. I live next to the river and, like many, am a steward of the river and surrounding land. Perhaps Wintergreen should consider their golf course for a good dumping site. I would think their facility would have enough technology to purify their waste. If not, perhaps they need a new facility.

DEQ Response: The suggestion regarding land application of the wastewater was forwarded to the owner for consideration. DEQ does not require one form of wastewater treatment over another, but does require that any proposal for wastewater disposal meet all applicable laws and regulations to protect groundwater and surface water quality.

6. Public Comment: There is an issue of great concern to the neighborhood with the substandard sewage in Nellysford. Recently, two businesses sought permits for septic unsuccessfully, and yet the treatment plant which seeks the renewal has excess capacity, has lines within easy access to the community, and should make some arrangement to help solve the public problems. I am uncertain whether research into this issue is within the permit renewal scope, but it would be in the public interest to determine what could be done to solve the Nellysford problems by hook-ups to this system. There are no viable alternatives of which we are aware.

DEQ Response: Other than pretreatment requirements for industrial discharges, DEQ does not regulate connections to STPs and cannot require a STP to accept connections from any particular sewage generator. The purpose of the VPDES permit is to ensure the discharge from the STP is managed such that it maintains downstream water quality. According to the permittee, the STP capacity is based on the original developments included in the Wintergreen

Master Plan, but recent connections to the STP not originally included in that Plan (local shopping center, bank, medical facility, and future care facility) have led the owner to consider expanding the STP.

7. Public Comment: Is it possible that DEQ can facilitate conversations between HCA and Nelson County on the idea of the county paying for extra treatment capacity that could be used by local citizens and businesses? I think that would have support from a lot of people. Heretofore, I think the developer has wanted significant payments above the cost of capacity and out-of-pocket expenses.

DEQ Response: While DEQ does advocate proper sewage treatment planning, securing adequate sewage treatment facilities is the responsibility of the localities and/or individuals generating the sewage.

8. Public Comment: At public hearings and public meetings over the past two years, the developer (HCA) has represented the existing discharge capacity of 40,000 GPD to be more than adequate to support: (a) completion of the build-out of Stoney Creek at Wintergreen, (b) the planned and authorized development of the Rosewood and Stone Orchard projects, and (c) the High Meadows high-density development (in Appeal). The availability of adequate water and sewer facilities has been a key factor in the debate about each of these development projects. Given the controversial nature of HCA's plans and the adequacy of the current permitted discharge capacity, it would seem appropriate to determine why more discharge capacity is needed. The Wintergreen Valley Utility Co. is a subsidiary of HCA (a developer and recent zoning change applicant). The Wintergreen utility company's primary purpose is to provide water and sewer to parts of the private community of Stoney Creek at Wintergreen. Thus, its existing discharge permit should be renewed at the current discharge level. However, it would seem appropriate for any plans to expand the utility company's service area in the Rockfish Valley to be subject to public review and discussion before initiating an increase in the permitted discharge capacity. To do otherwise would be getting "the cart before the horse" and inadvertently place DEQ in the position of an unintended arbiter of community development plans.

DEQ Response: The issue of limiting the treatment capacity of a STP is most appropriately addressed at the local level. The state laws and regulations governing VPDES permits focus primarily on the protection of water quality. DEQ does, however, correspond with the local government prior to issuing a new VPDES permit. This correspondence is in accordance with the VA Code § 62.1-44.15:3, which states: No application submitted to the Board for a new individual Virginia Pollutant Discharge Elimination permit authorizing a new discharge of sewage, industrial wastes, or other wastes shall be considered complete unless it contains notification from the county, city, or town in which the discharge is to take place that the location and operation of the discharging facility are consistent with applicable ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The county, city, or town shall inform in writing the applicant and the Board of the discharging facility's compliance or noncompliance not more than thirty days from receipt by the chief administrative officer, or his agent, of a request from the applicant. Should the county, city, or town fail to provide such written notification within thirty days, the requirement for such notification is waived.

DEQ received documentation from the owner indicating the Supreme Court of Virginia refused to consider the appeal of Judge Gamble's decision against parties opposing the rezoning of the land tract to be utilized for the High Meadows development.

9. Public Comment: Draper-Aden has been commissioned by the Nelson County Service Authority to identify potable water resources, and one potential source includes the South Fork Rockfish River.

DEQ Response: The Wintergreen Stoney Creek STP has been discharging wastewater in accordance with their VPDES permit since 1988. As such, the discharge should be addressed by Draper-Aden when evaluating potential raw drinking water supplies. All VPDES permit applications are forwarded to the Virginia Department of Health for their review and concurrence. VDH replied to DEQ by memorandum dated December 18, 2006, that there are no public supply raw water intakes located within 15 miles downstream of the discharge, and they do not object to the discharge. Furthermore, DEQ has not received any objections from local government officials or planning personnel to the permit reissuance application request. Existing discharges are taken into consideration in VDH's review of proposed water supply intakes.

10. Public Comment: Stream flows have decreased in recent years, and past flow determinations shouldn't be used to extrapolate future conditions.

DEQ Response: As part of the permit reissuance fact sheet, DEQ conducted a flow frequency determination (FFD) for the South Fork Rockfish River at its confluence with Allen Creek (predicted mixing zone endpoint). The FFD is consistent with DEQ guidelines for establishing critical low stream flows. This FFD is based on the most recent available USGS/DEQ flow data for the South Fork Rockfish River, and includes data collected during the period of 1943 through 2005 (USGS/DEQ Gauging Station #02085000, Greenfield, VA).

11. Public Comment: The Nellysford area experiences extreme climatic swings with heavy rains and extended droughts, and these conditions may impact the assimilative capacity of the receiving stream.

DEQ Response: Because the FFD is based on flow data collected on the South Fork Rockfish River in close proximity to the discharge, the critical low flows established in the FFD should accurately account for recent local drought conditions.

12. Public Comment: DEQ cannot reliably extrapolate the impact to the South Fork Rockfish River by planned developments that will rely on septic systems, and therefore, the 0.120 MGD expansion flow tier should not be permitted until problems that may arise as a result of these developments are more foreseeable.

DEQ Response: Subsurface sewage disposal systems are regulated by VDH. These systems must be appropriately sited, sized, and designed prior to receiving VDH approval. In some cases, antiquated residential septic systems have been linked to bacterial stream impairments; however, DEQ does not anticipate future impacts to the South Fork Rockfish River by new septic systems which have been reviewed and approved by VDH.

13. Public Comment: If an upstream STP is needed to serve local citizens and business owners, the stream assimilative capacity available to this STP will be limited by the proposed increase in discharge flow at the Wintergreen Stoney Creek STP. Also, if the assimilative capacity allocated to the Wintergreen Stoney Creek STP is not fully utilized, it is conceivable that the owner could potentially profit from the sale of pollution credits.

DEQ Response: Anyone can apply for a VPDES permit for a new discharge or a facility expansion at any time. Once an application is deemed complete, DEQ is obligated to draft a VPDES permit with the appropriate discharge requirements and limitations. The VPDES permit application forms do not require the applicant to demonstrate a need for the discharge flow(s) they request, but the request is required to be in compliance with local zoning ordinances.

The trading or sale of "pollution credits" is limited to total nitrogen (TN) and total phosphorus (TP) annual wasteload allocations assigned to significant nutrient dischargers recognized in 9 VAC 25-720. Non-significant nutrient discharging facilities, such as the Wintergreen Stoney Creek STP, that propose to expand their treatment capacity are assigned

TN and TP annual wasteload allocations. These types of facilities are not allowed to trade or sell their unused nutrient wasteload allocations, however.

14. Public Comment: Expansion of the STP and service area will allow developers to pick and choose who receives sewer service and will support development, allowing builders to cite available capacity when submitting their plans for local government consideration.

DEQ Response: DEQ does not regulate connections to STPs and cannot require a STP to accept connections from any particular sewage generator. Expansion of an STP is not guaranteed based on the inclusion of an expanded flow tier in a VPDES permit. The permit only sets the conditions the STP must meet, should it gain approval to operate at the expanded flow. Local use and zoning ordinances may or may not regulate the ultimate allowable STP design capacity. DEQ does not restrict the STP design capacity, but does require that the facility be designed in accordance with 9 VAC 25-790 (Sewage Collection and Treatment Regulations), and capable of meeting their VPDES permit requirements.

15. Public Comment: The record (a detailed 7-page fact-finding record was presented in conjunction with this summary comment and is available for review) shows that the owner has repeatedly stated and believed that it had adequate water and sewer capacity for their existing projects and for substantial additional development. As such, the owner demonstrably does not need a 0.120 MGD flow tier in their VPDES permit. The STP is not even close to 50 percent of its permitted capacity, let alone its design capacity. Based on a review of the facts surrounding the owner's development plans, the only inference that can be made is that undisclosed enormous growth in the South Rockfish River Valley in and around Stoney Creek and Nellysford is planned. If the owner is given an unjustified expansion of its sewer facility to 0.120 MGD, they will have *carte blanche* to over-develop the South Rockfish River Valley in a way that is wholly inconsistent with Nelson County's plans for the South Rockfish and with the wishes and desires of the citizens of Stoney Creek and Nellysford. Please reissue the owner a permit limiting the discharge to 0.040 MGD. If the owner needs a higher tier in the future, they should be required to re-apply and justify the request.

NOTE: Similar oral requests were made at the July 26, 2007 public hearing, asking DEQ to limit the permit to either the permitted flow of 0.040 MGD or the design flow of 0.065 MGD.

DEQ Response: See DEQ Response to Public Comment No. 8

The VPDES permit application forms do not require the applicant to demonstrate a need for the discharge flow(s) they request, but the request is required to be in compliance with local zoning ordinances.

Permittee Comment: The applicant provided written comments on August 7, 2007, and requested they be conveyed to the Board. These comments are provided below:

There appears to be concern over the pending reissuance of the Wintergreen Stoney Creek STP VPDES draft permit, which includes an increase in treatment capacity from 0.065 MGD to 0.120 MGD. Wintergreen is a planned residential community. The planning and engineering required to properly provide adequate size and capacity of all infrastructure elements (roads, electric, telephone, water, sewer, drainage, storm water management, etc.) has been, and is, a key factor in the success of Wintergreen over the past 30-plus years. Providing for additional capacity of the Wintergreen Stoney Creek STP, if and when required, is "business as normal" in the planning and preliminary engineering process.

The initial planning and engineering for the Stoney Creek Community was based on certain assumptions tied to the ultimate "build-out" as allowed by the Wintergreen Master Plan. Since that initial design some 20-plus years ago (1985/86), there have been some alterations and additions, which have impacted the infrastructure. One such addition occurred in June of last year, when the Valley Green Shopping Center and Stoney Creek Family Practice Medical

Center in Nellysford were connected to the central sewer system. The increase in flow thru the STP has been fairly dramatic since June 2006, with an average increase of approximately 6,000 GPD.

Another deviation from the original plan has been the addition of Rosewood Village at Wintergreen, a retirement community with condominiums, villas, and an assisted care facility. The assisted care facility in particular is an unknown in terms of the sewage system loading.

While we have done some initial research of this type of facility, until final design is complete, including food preparation and laundry, we will not know the projected daily flows. When it does “come on-line” it will likely be very quick, since these facilities normally have a waiting list and are filled almost immediately.

We are constantly evaluating the adequacy and performance of the sewage system with engineers from Wiley & Wilson, the Wintergreen Stoney Creek STP engineers of record, as well as Environmental Systems Service operational personnel. While the present average flow through the STP is about 1/3 of the hydraulic capacity, it is only good engineering and business practice to pro-act and anticipate worst-case scenario as opposed to finding oneself in “crisis mode.” When the STP was designed in 1986, consideration was given to future expansion. We were advised then that the most economical expansion was to double the size, hence the 120,000 GPD.

We are also concerned that the present facility may not be adequate to handle 65,000 GPD flows as designed, and we may have to provide additional aeration as an example. If we have to make modifications and additions to the existing STP, might we be better advised to proceed with an expansion now as opposed to later? These are all “business-as-normal” questions and concerns that need to be addressed in a sound engineering evaluation. The VPDES permit requirements for a 0.120 MGD discharge will define the requirements and parameters which become the basis for design.

DEQ responses to questions received during the public comment period are provided below.

1. Public Question: I note that a reissue of Permit VA0074047 is proposed. The proposal is to release 0.120 million gallons per day. Could you please advise what flow rate the current permit allows?

DEQ Response: The facility is currently permitted to discharge at a rate of 0.065 MGD. The facility will need to be upgraded and expanded before it will be permitted to discharge at 0.120 MGD. As part of the expansion, the facility will be required to meet new nutrient (nitrogen and phosphorus) limitations, which are necessary to facilitate ongoing Chesapeake Bay restoration efforts.

2. Public Question: Who determines whether or not an increase is permitted, and does anyone, either local government or citizens, have any control or input of significance in the process?

DEQ Response: DEQ evaluates point-source discharges based on their design average flow, which is reported by the facility owner in the VPDES permit application. The VPDES permit is written based on the design capacity that is needed to accommodate the expected maximum long-term average wastewater flow. VPDES permits are often written with multiple flow tiers, with each tier having limitations specific to the requested discharge flow. DEQ evaluates the receiving stream and discharge characteristics to determine what limitations are needed to ensure downstream water quality is protected. This evaluation is documented in a VPDES permit fact sheet, and a draft permit is developed in conjunction with the fact sheet findings.

Local governments are notified by letter of any VPDES application requesting a modification to an existing discharge (such as an expansion) or a proposal for a new discharge. The local government is requested to inform the applicant and DEQ of the discharging facility's compliance or noncompliance with applicable ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. Also, VDH reviews all permit applications for compliance with

downstream potable water supply requirements. In addition, all draft permits for issuances, reissuances, or major modifications are public-noticed in a newspaper local to the treatment facility area. The local government is also copied with the permit public notice when it is sent to the newspaper. The public and local government are invited to comment on the draft permit, and DEQ considers all of the comments received. If, after the public notice period, no comments are received from the local government, citizens, or other state and federal agencies, DEQ will proceed with the draft permit authorization. If comments are received, DEQ will work with all the interested parties and attempt to resolve all questions or concerns. This may include holding a public meeting and/or hearing. If a hearing is held, the draft permit will be presented to the State Water Control Board for its decision. In some cases, an appeal to a permit may be filed with the court following the permit authorization. However, DEQ attempts to resolve all concerns prior to the permit authorization.

Prior to the construction and operation of a new or expanded STP, the DEQ Office of Wastewater Engineering reviews the construction plans & specifications for the facility design to ensure it will provide the treatment required by the VPDES permit. Although this process is not subject to any public notice requirements, the status of all reviews is available at the following web site: <http://www.deq.virginia.gov/wastewater/>.

3. Public Question: Does DEQ have the ability to deny an application to increase the amount of wastewater to be treated from an existing facility, if the agency determines that downstream water quality will be protected?

DEQ Response: If an application to increase the amount of wastewater to be discharged from an existing facility is submitted and the proposal is in compliance with local zoning ordinances, and is not otherwise prohibited by any laws or regulations, then DEQ has a legal obligation to prepare a draft permit that would be protective of water quality. VPDES permits are written based on the requested discharge flow in accordance with the applicable state and federal laws, regulations, guidelines, and policies. The owner must design the treatment facility such that it will achieve compliance with those limits. DEQ corresponds with VDH when processing VPDES permit actions for facilities which receive sewage wastewaters. We also notify the Department of Game and Inland Fisheries (DGIF) and the Department of Conservation and Recreation (DCR) on permit issuances and reissuances or modifications that include an expanded flow tier. VDH reviews applications to ensure downstream public water supplies are protected, and DGIF and DCR check for threatened and endangered species habitat. In some cases, these agencies might recommend not granting an expanded flow tier. DEQ did not receive any objections to the Wintergreen Stoney Creek STP expansion request from these agencies.

Virginia Water Protection Permit Number 05-0852, Cumberland County's Cobb Creek Reservoir: On April 13, 2005 Cumberland County applied for a Virginia Water Protection Permit to build a dam on Cobbs Creek and an intake on the James River that will supply water to the counties of Cumberland, Goochland, Powhatan and Henrico. Once filled that dam would form a reservoir storing 15 billion gallons of water and a lake with a surface area of 1100 acres. The watershed of Cobbs Creek covers only 2 square miles. The primary water supply for the reservoir would come from a pumping station on the nearby James River.

The pumping station would have a maximum capacity of 150 million gallons per day (mgd). The safe yield, the amount of water that the project could reliably supply in a significant drought, is about 47 mgd day. The project would not be allowed to pump water from the river during low flows. During low flows water would be released back to the river from storage. Downstream partners would be allowed to recover the released water downstream on a gallon for gallon basis. The project is expected to meet public water supply needs for the participating localities 50 years into the future. Projected demand in the four county region is expected to reach 130 mgd by 2055; existing supplies are 80 mgd.

The project will impact 32 acres of wetlands and 15 miles of streams. Mitigation for the wetland impacts will occur at the Swift Island mitigation site in Buckingham County located approximately 38 river miles upriver from the intake. Mitigation for the stream impacts will take place largely in the Cumberland State Forest, located 10 miles southwest of the reservoir. Buffers will be created along streams inside the State Forest. Additional stream mitigation will take place at the Swift Island site. In addition, mitigation bank credits will be purchased, or a payment will be made to the Aquatic Trust Fund, to compensate for impacts not totally covered by the two compensation sites.

The chief elected local officials and chief administrative officers of all localities on each side of the James River between Cumberland and Richmond were provided with the public notice. All interested citizens that had requested notification were provided with the notice as well. The notice was also published in the Farmville Herald and the Richmond Times Dispatch.

During the public comment period of May 13 to June 15, 2007, we received 35 postcards supporting the project; letters from Henrico, Cumberland and Powhatan supporting the project; and three letters critical of the project.

Commenters supporting the project concluded that a reliable long term water supply for the four counties was needed, that the project would reduce stress on the river during drought, that low flow augmentation would benefit instream beneficial uses and that the lake would provide a recreational amenity to the region's citizens. The localities also emphasized the regional nature of the partnership and noted that regional water supply projects are encouraged by the General Assembly.

Comments critical of the project were received from the City of Richmond, from the Noldas, who own property that would be affected by the reservoir, and from Mark Fendig, a citizen who is interested in water resources projects impacting the James River. Mr. Fendig requested a public hearing. A summary of their comments and staff responses follow.

The Noldas outlined their concerns but did not request a hearing:

1. Concerned with side effects of clearing vegetation in the reservoir pool such as dust and smoke if a controlled burn takes place.

The permit requires the submission of a vegetation clearing plan. Clearing is likely to be no different than normal forestry practices of controlled burn following a clear cut in preparation for replanting. This will probably take place in the deeper part of the reservoir. Stumps and woody vegetation are likely to be left in the shallows to provide fish habitat. These types of forestry practices already take place in the County. Silviculture is very important in Cumberland County.

2. Concerned about the buffer and want to continue to own the property down to the shoreline.

The purpose of the buffer is to protect the water quality of the reservoir. The permit language with regard to the buffer was drafted in a manner that prescribed what kind of structures could be permitted in the buffer while respecting the desires of adjoining property owners to enjoy the benefits of living beside the water without unduly changing the existing landscape or compromising the water quality protection benefit of the buffer.

Whether the County elects to buy the property within the buffer or to purchase easements is a matter for the County to decide. Cumberland County has the right of eminent domain and the ability to condemn property for public purposes should mutually agreeable terms not be reached.

3. Concerned about the degree and frequency of drawdown.

We have provided the Noldas with our best estimates of storage depletion which shows how much and when storage is depleted. We have also given them a functioning simulation model. Actual drawdown will depend on future stream flows and the speed with which new water demand develops. A more severe drought than previously experienced will produce a deeper drawdown than our current estimates. If growth turns out to be slower than expected then drawdown would be less severe than predicted.

The purpose of the reservoir is to provide public water supply as a primary purpose and to provide low flow augmentation and a public recreational asset as secondary purposes. The reservoir cannot provide low flow augmentation or public water supply if it is not drawn down during droughts. Drawdown is one of the necessary tradeoffs of a public water supply reservoir. A purely recreational lake would not have been permitted or even funded.

4. Concerned drawdown will leave pools of stagnant water that will propagate mosquitoes which in turn will act as carriers of West Nile virus. Also concerned that drawdown will negatively impact their remnant land values.

We have found no evidence in the literature connecting drawdown to a proliferation of mosquitoes. In fact we have found that lake level fluctuations are not conducive to mosquito populations and that TVA uses lake level declines to strand mosquito eggs and larvae on the shore where they will dry out and die before water levels rise again.

The Cobbs Creek site was chosen because of its topography. The watershed forms a relatively deep bowl that drops away fairly sharply. Since the project is a water supply reservoir, drawdown begins during low flow and low rainfall. If one observes the modeling results, the drawdown, when it does occur, usually starts in the mid summer and continues steadily until the trend is reversed in late fall or early winter. Such a pattern should leave behind dry ground as the heat of the summer and early fall dries out the newly exposed shore. No changes to the permit are anticipated as a result of the comment.

We cannot predict what will happen to property values, but generally waterfront property commands a premium compared with non water front property.

5. Concerned that there would not be enough “flow through the lake” and the water would become stagnant.

There are other side storage reservoirs within the State with large volumes and small drainage areas. Spring Hollow in Roanoke County has been in existence for years and this has not become a problem. Other examples include Motts Run Reservoir and Hunting Run Reservoir.

The reservoir has a watershed of about 2 square miles and most of that will be flooded. Non-point source runoff will be minimal. Most of the water in the lake will originate from the James River which has good water quality at this location.

6. They feel that allowing livestock in the buffer would be counterproductive to the stated purpose of the buffer to protect water quality

The permit language does not allow livestock in the buffer; rather it allows the construction of fences by the County to exclude livestock from the buffer.

7. They want DEQ to mandate a “deep dig” around the reservoir’s normal pool edge so that when the lake drops it would recede less horizontally.

DEQ has no plans to mandate a “deep dig” to make the edge of the reservoir deeper than it would be if it were left as is. The land falls off sharply in many places making it an ideal location for a reservoir. The selection of borrow sites for the dam is usually the closest site with adequate material for use in dam construction. There may be some incidental deepening within the pool, but if material for the dam is brought from off site, there may not be any.

8. They do not like the process in general and thought that any reference to the project as a “Lake” was disingenuous.

The process is over two years old and has not been rushed. DEQ made a special effort beyond the regulatory requirements to provide notice to interested citizens of the availability of the draft permit for comment.

The City of Richmond has three main areas of comment, but did not request a hearing:

1. The pumping plan is different from the river management plan that Richmond negotiated when getting their CSO permit approved.

The purpose of this proposed project is significantly different than Richmond’s project and it is logical to assume they would contain different pumping plans. The pumping plan contained in this draft permit is protective of all instream uses and existing off stream uses and is based on recommendations of the Department of Game and Inland Fisheries. For further technical analysis of the two rules see the October 28, 2005 memo comparing the Richmond River Management Plan with the Department of Game and Inland Fisheries recommendations (attached).

2. The conservation plan is different from Richmond’s water conservation plan.

While staff agrees that the two water conservation plans differ, it is important to note that all major water suppliers in the Richmond metropolitan area (Richmond, Chesterfield, Henrico, Hanover) have historically cooperated in water conservation requirements due to the complex interconnection of their water supply and distribution systems. During the drought of 2002 these systems initiated water

conservation requirements in unison and the water conservation plan contained in this proposal closely mimics the actual actions that were taken in 2002. The existing Richmond water conservation plan is not a condition of their current permit and was proposed without consideration of the low flow benefits of this proposed project..

3. Richmond argues that if Henrico needs water, they should buy more water from Richmond in order to take advantage of existing unused public infrastructure.

The purpose of a Virginia Water Protection Permit is to protect instream flows and instream beneficial uses. Richmond's proposal would result in the additional withdrawal of water during extreme low flows in the reach of the river that is most impacted by the cumulative upstream withdrawals and would have the potential to propagate additional adverse impacts. This withdrawal would occur without the secondary benefit of augmentation of river flows from releases from Cobbs Creek. There is no existing unused public infrastructure to support the projected water demands in Powhatan or Cumberland counties. Richmond's proposal would likely result in two additional run-of-river water withdrawal proposals that would have additional negative impacts to the subject river reach during low flow periods.

Mr. Mark Fendig requested a public hearing and made the following comments:

1. The maximum withdrawal (150 mgd) is too large and should be limited to 2% of the rivers flow.

Withdrawals will range between 1.6% and 7.8% of the rivers flow. At the lowest flow where withdrawals are allowed (2315 cfs) the withdrawal would be 1.6% of the river's flow. At the lowest flow (2963 cfs) when the maximum pumping (150 mgd) is allowed, the withdrawal would be 7.8%. These are historically small percentages of natural flow.

2. We should make the applicant install a gage at the intake site.

The river is already well gaged. The difference in flow between the reference gage and the site is insignificant and easily corrected by drainage area scaling. The Cartersville gage is only seven miles downstream of the intake.

3. The lake will have large evaporation and seepage losses.

All lakes have some evaporation and seepage losses. However if we are to protect instream flow and still have water supply, we must store water for the times when instream flow is low. The only practicable way to store the necessary amounts of water is with a reservoir.

4. Withdrawals during low flows will have negative thermal impacts on the river.

Withdrawals will not take place during low flows. No withdrawals will take place during flows equal to the 28th percentile flow or lower. Normal flows are generally defined as those flows between the 25th and 75th percentiles. If releases are made from lower in the lake it could actually have a minor cooling impact on the river during low flow.

5. Mr. Fendig is concerned about interbasin transfers.

This project does not involve an interbasin transfer.

6. Mr. Fendig is concerned about the water rights of other riparians.

Because the minimum instream flowby is set so high we believe that all riparian rights will be protected. Furthermore, "The regulation, control, development and use of waters for all purposes beneficial to the public are within the jurisdiction of the Commonwealth which in the exercise of its police powers may establish measures to effectuate the proper and comprehensive utilization and protection of such waters." §62.1-11 B Code of Virginia

7. Mr. Fendig suggests we mandate some releases during extremely low flow periods.

We believe there is merit to this comment. The applicant and DEQ were considering low flow augmentation as a byproduct rather than a primary purpose of the project.

We recommend that the Board consider the following condition:

"Whenever the Virginia Drought Coordinator declares that the Middle James Drought Evaluation Region is in a Drought Watch, the permittee and its downstream partners shall enter into discussions with DEQ staff to determine appropriate releases from the reservoir. An adaptive management process shall be used to establish required releases that balance downstream water demands, remaining reservoir storage, in-stream flow conditions, future precipitation outlooks, and any other pertinent factors. The chairman of the Virginia Drought Monitoring Task Force shall be a party to these discussions and the advice of the VDMTF shall be strongly considered in the decision making process."

This would make low flow augmentation a primary purpose of the project. As long as we allowed the downstream withdrawers to recover the water downstream, it would not adversely impact the safe yield of the project, while benefiting the river at a time when it is most stressed. By putting the condition in the permit now, we could get some low flow benefit early in the permit cycle even if the partners did not need the water for public supply.

8. Mr. Fendig doesn't think we should allow the temporary use of mechanical equipment in surface waters.

The use of mechanical equipment in surface water is routinely allowed provided the conditions in the permit are followed.

9. Mr. Fendig doesn't like the size of the disturbance associated with the infiltration intake gallery.

The size of the intake structure is large, but the impact associated with its construction is temporary and the permanent result is an almost imperceptible intake velocity which will eliminate impingement and entrainment.

10. Mr. Fendig doesn't think the applicant has adequately addressed endangered species, historical structures and existing conservation easements.

These issues have been fully addressed to the extent state law provides. Surveys for endangered mussels were performed. At the federal level historic resource Section 106 consultation has occurred. We are unaware of any conservation easements that would prevent the construction of the reservoir.

11. Mr. Fendig doesn't think adequate E and S controls will be followed.

This is not a VWP permit issue; this is a construction compliance issue.

Additional Informal Public Input: An informal public meeting was held on July 25, 2007 with landowners directly impacted by the proposed reservoir, representatives of the applicant, and other interested parties. The purpose of the meeting was to provide an informal forum during which the DEQ staff and the applicant's representative could provide answers to the impacted landowners' questions. During this meeting it was discovered that there are a couple of existing structures that will fall within the footprint of the buffer associated with the reservoir. DEQ staff will recommend changes to the draft permit to accommodate these existing structures.

Public Hearing: A public hearing has been scheduled for August 28, 2007 based on Mr. Fendig's request. The public comment period associated with this hearing will close on September 12, 2007. Staff will endeavor to provide a summary of additional comments and staff responses to the Board members prior to the September 25 meeting.

Conclusion: Based on information available at this time, the staff will present recommendations to the Board to make changes to the draft permit to make it more certain that water will be released to the river during low flow and will recommend changes to the current buffer condition to accommodate certain existing structures within the buffer. Other recommendations are possible depending on the comments received at the public hearing and from the extended comment period.

Report on Significant Noncompliance: One permittee was reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending March 31, 2007. The permittee, its facility and the reported instances of noncompliance are as follows:

- | | |
|----------------------------|------------------------------------------------------------------------|
| 1. Permittee/Facility: | Town of Lawrenceville, Lawrenceville Wastewater Treatment Plant |
| Type of Noncompliance: | Failure to Meet Permit Effluent Limit (Total Suspended Solids) |
| City/County: | Lawrenceville, Virginia |
| Receiving Water: | Roses Creek |
| Impaired Water: | Roses Creek is not listed on the 305(b) report as impaired. |
| River Basin: | Chowan River Basin |
| Dates of Noncompliance: | November 2006, February 2007 |
| Requirements Contained In: | VPDES Permit |
| DEQ Region: | Piedmont Regional Office |

Due to the isolated nature of the violations the staff of the Piedmont Regional Office have determined that enforcement action is not warranted in this matter.

Water Civil Charge/Civil Penalty Worksheet: At its most recent meeting on June 27, 2007, the Board requested a presentation on the Water Civil Charge/Civil Penalty Worksheet. The worksheet is part of guidance entitled *Civil Charges and Civil Penalties in Administrative Actions* (Enf. Guid. Memo. No. 2-2006 (Revision 1) (June 29, 2007)). Attached is a copy of the current worksheet used for most violations, including violations in the Virginia Pollutant Discharge Elimination System (VPDES) Program. Staff from the Division of Enforcement will make a presentation on the worksheet at the Board meeting on September 26th.

Bristow Manor Limited Partnership, Prince William County - Consent Special Order w/ Civil Charges: Bristow Manor owns and operates a Waste Water Treatment Plant (WWTP) and its spray irrigation system located in Bristow, Virginia in Prince William County. The WWTP services the Bristow Manor Golf Club and approximately twenty-two residences. Bristow's permit provides for wastewater treatment and spray irrigation of treated effluent to 5.2 acres of the Golf Club site, which is also used as a driving range. The Permit does not authorize discharges of wastewater to state waters.

Bristow was referred to enforcement on December 11, 2006 for violations of its Permit, including sampling only once instead of twice for BOD₅ and TSS in May 2006, exceeding the weekly and monthly concentration limit for BOD₅ in May, September, October, and November of 2006 and exceeding the weekly concentration limit for TSS in October and the monthly concentration limit for TSS in October and November of 2006. Bristow also exceeded the permitted concentration average limit for Fecal Coliform in November 2006. Bristow's Permit requires Bristow to sample 5 groundwater monitoring wells for parameters including Nitrate-Nitrogen, Chloride, Specific Conductivity, and Alkalinity and provide results in a monthly groundwater monitoring report. Bristow failed to report sampling results for these parameters in all 5 wells in June 2006. Lastly, Bristow also failed to submit an amendment to their Sludge Management Plan by the due date set forth in the Permit. A further review of Bristow's groundwater monitoring reports shows a consistent presence of Fecal Coliform in all groundwater monitoring wells.

DEQ staff met with representatives of Bristow Manor and SES/Onsite Solutions, a contractor for Bristow Manor on January 17, 2007 to discuss the alleged Permit violations and groundwater monitoring reports. At this meeting the SES/Onsite Solutions representative asserted that the Permit violations were caused by inflow and infiltration issues. He further stated that plans were underway to smoke test the lines leading to the treatment plant to determine areas of infiltration. The SES/Onsite Solutions representative further stated that while he was aware of the presence of Fecal Coliform in the groundwater monitoring wells, he has been unable to determine the cause. DEQ presented measures that Bristow Manor could undertake for the purpose of increasing the efficiency of the treatment process, and these measures were incorporated into Appendix A of the proposed Consent Order.

The Order requires Bristow to shock the groundwater monitoring wells and complete further testing for Fecal Coliform. Depending on the result of Fecal Coliform testing, Bristow will complete a statistical analysis of groundwater monitoring wells and dye testing of the lagoon. Bristow will also install a new sampling port, repair a damaged aerator prior to spraying season, conduct an inflow and infiltration study and conduct an investigatory study to determine the feasibility of repairing the main pump chamber. Bristow will repair the chamber if the repairs are feasible. If the repairs are not feasible, the facility will replace the main pump chamber with a new pump chamber and if the facility continues to experience permit violations after pursuing whichever option applies, the facility will be required to install an equalization tank. The Order also requires that Bristow develop and implement a kitchen waste/grease handling program for kitchen staff, and comply with permit requirements for effluent limit violations.

Civil Charge: \$6,500

Town of South Boston - Consent Special Order w/ Civil Charges: The South Boston Wastewater Treatment Plant is a permitted facility which treats both industrial and domestic wastewater from the Town, and discharges to the Dan River. From November, 2005 to May, 2007, the facility has a chronic history of noncompliance in regards to permit limits, as well as late reporting deficiencies. The last three facility inspections conducted by staff have documented numerous operational deficiencies, a portion of which are reoccurring from previous inspections. The facility is planning to join a proposed Service Authority effective January 1, 2008, consisting of the Town of South Boston, the Town of Halifax, and Halifax County.

The proposed Order contains a schedule of compliance which requires the facility to perform and document Operation and Maintenance (O & M) and process control measures to ensure consistent compliance with the terms of the discharge permit. The schedule requires submittal of supplemental operating data in addition to the monthly DMR (Discharge Monitoring Report). Photographic documentation of each major process unit is also required to show evidence of proper Operation & Maintenance (O & M). Each monthly submission will be reviewed by staff compliance and enforcement personnel to determine compliance status. This arrangement addresses increased management oversight of the facility, placing greater emphasis on permit compliance. Staff estimates the facility will incur less than \$1,000 in injunctive relief to comply with the terms of the Order.

Civil Charge: \$8,200

Aqua Utilities, Inc., Caroline County - Consent Special Order w/ Civil Charges: Aqua Utilities ("Aqua") owns and operates the Land 'Or Utility STP ("STP"). In late 2003 and early 2004, the STP experienced permit effluent violations for Total Suspended Solids ("TSS"), Total Kjeldahl Nitrogen ("TKN"), Ammonia as nitrogen, and Biochemical Oxygen Demand ("BOD") leading to its referral to enforcement. The violations stemmed from an antiquated STP that was not designed to treat for TKN and Ammonia removal or reduction. In order to resolve these violations, Aqua and DEQ entered into Consent Special Order on June 21, 2004 ("2004 Order") that required Aqua to replace the STP with a new, expanded facility and close the existing STP by June 30, 2006.

During the plan and design phase of the project, the State Water Control Board proposed and adopted new nutrient regulations.¹ During a meeting with DEQ on November 7, 2005, Aqua asserted that these newly adopted regulations made the construction of a new plant financially unfeasible. In order to resolve the violations addressed in the 2004 Order, Aqua proposed to send the sanitary sewer flows to the Caroline County Wastewater Treatment Plant and take the existing STP offline. This agreement was memorialized in an Amended Order between DEQ and Aqua executed on September 11, 2006 ("2006 Amendment").

The 2006 Amendment required Aqua to complete connections with Caroline County by November 30, 2007 and close the old STP by May 31, 2008. Aqua and Caroline County attempted to negotiate an agreement regarding the interconnection, however they were unable to agree on the terms. Aqua met with DEQ on March 1, 2007 and proposed to abandon the interconnection project and instead, reconstruct the existing STP to achieve compliance with its Permit and State Water regulations.

Aqua submitted a formal request to DEQ on March 19, 2007 to amend the 2004 Order and included a schedule of completion for the reconstructed STP. This schedule has been incorporated into Appendix A of the Order.

¹ The Board adopted new nutrient regulations for the York River Basin (9 VAC 25-720-120), which govern the nutrient loadings the facility can discharge.

In addition to the foregoing, Aqua also has violated interim effluent limits set forth in the 2006 Amendment for BOD, Ammonia, TSS, and TKN. Aqua violated VPDES Permit Regulation, 9 VAC 25-31-50.A and the Permit by submitting incomplete Discharge and Monitoring Reports in October 2006 and January and March 2007, providing an inadequate letter of explanation for an incorrect sample frequency in March, 2007, and exceeding the Permitted effluent limit for chlorine in November 2006. DEQ notified Aqua of these violations in Notices of Violations (“NOVs”) issued on January 10, 2007, February 12, 2007, March 9, 2007, and April 12, 2007. Aqua submitted a response to each of these NOVs stating that “they continue to operate the STP as efficiently as possible while they actively pursue a resolution under the Consent Special Order”.

The Order requires Aqua to: (1) complete interim upgrades to the STP; (2) increase sampling with the use of a refrigerated auto-sampler; (3) conduct an Inflow & Infiltration study; and (3) expand and upgrade the STP to comply with Permitted limits.
Civil Charge: \$12,000

Smith-Midland, Inc., Fauquier County - Consent Special Order w/ Civil Charges: Smith-Midland, Inc. owns and operates the Smith-Midland Sewage Treatment Plant (STP) in Fauquier County, Virginia. This small STP serves the facility which manufactures pre-cast concrete products. Permit No. VA0084298 authorizes Smith-Midland to discharge to Licking Run Stream via two outfalls. Wastewater that is generated from domestic operations at Smith-Midland is discharged via Outfall 001 to Licking Run Stream. The domestic side of the plant serves approximately 97 full time employees. Effluent that is created from Smith-Midland’s concrete acid washing process is discharged via Outfall 002 to Licking Run Stream. Smith-Midland was referred to enforcement on February 16, 2007 for exceeding permit effluent limits at both Outfalls.

The violations regarding the current Consent Order were discovered upon DEQ inspection and sampling. On three separate occasions, DEQ inspection revealed violations of Smith-Midland’s permit limits for BOD₅, TSS, fecal coliform, and pH. The TSS and BOD₅ violations as well as the isolated fecal coliform violation have been occurring at Outfall 001, the outfall which discharges wastewater associated with Smith-Midland’s domestic operations. The isolated pH violations occurred at Outfall 002, the outfall which discharges wastewater associated with Smith-Midland’s concrete acid washing process. While the fecal coliform and pH violations appear to be an isolated occurrence and have not occurred since, the TSS and BOD₅ violations appear to be more consistent. In addition, Smith-Midland and the DEQ inspector’s sampling results have not matched up for many months. On April 10, 2007, Smith-Midland and DEQ met to discuss Smith-Midland’s situation and it was still not clear why the sampling results were consistently different. Doug Crooks, Smith Midland’s consultant, thus agreed to purchase a composite sampler that will be used to sample at Smith-Midland, and upon DEQ request, will split the samples with the DEQ inspector.

At the April 10, 2007 meeting, Smith-Midland also agreed that it would submit to DEQ a study of the appropriateness of the current treatment plant, including the possibility of installing a new plant, as well as submit to DEQ a list of steps that Smith-Midland has already taken, and steps that Smith-Midland will take in the future to optimize the plant and come into compliance. Smith-Midland expressed its willingness to work with DEQ in good faith to ensure violations no longer continue. In addition, Smith-Midland informed DEQ that it has recently taken a number of steps, including replacing equipment and adopting better maintenance habits to optimize the current treatment plant further evidencing Smith-Midland’s willingness to cooperate with DEQ and come into compliance.

The order requires Smith-Midland, Inc. to submit to DEQ a report outlining the steps already taken to optimize the sewage treatment plant and the three stage treatment system for performance and to ensure compliance with Permit limits. In addition, the order requires the installation of a refrigerated auto-sampler. This auto-sampler will be used to sample for BOD₅ and TSS. The sampling for BOD₅ and TSS will be increased from monthly to weekly. This increased sampling shall continue

for 12 weeks. At the end of this twelve week period, DEQ will review the data, and if DEQ determines from this data that the plant is not capable of complying with Permit limits, Smith-Midland shall submit to DEQ for review and approval a plan of corrective action which shall include whether or not Smith-Midland proposes to upgrade the current system or construct a new treatment plant. The plan of corrective action shall also include justification for Smith-Midland's proposal and a schedule of compliance which will be enforceable under the Order. In addition, the Order also requires the facility to take influent loading grab samples to coincide with the weekly BOD₅ and TSS sampling. Finally, the Order requires the facility to submit an updated Operation and Maintenance (O&M) Manual within 30 days of execution of the Order.

Civil Charge: \$3,150

Spotsylvania County - Consent Special Order w/ Civil Charges: Spotsylvania County ("Spotsylvania") is responsible for the operation and maintenance of the collection system that conveys sewage to the Massaponax Wastewater Treatment Plant (VPDES Permit No. VA0025658). The Butzner Tract is a 2.3 mile portion of the collection system that in some sections runs parallel to Massaponax creek and in some sections crosses under the creek.

Spotsylvania County began experiencing sanitary sewer overflows ("SSOs") within the Butzner Tract in late November, 2006. The SSOs occurred almost daily until January when they began appearing primarily on weekend days during periods of high flow. These events were reported to DEQ leading to the issuance of a Notice of Violation (NOV) by DEQ to Spotsylvania County on January 17, 2007 for discharging sewage into state waters without a permit.

DEQ staff met with Spotsylvania County on January 5, 2007 where Spotsylvania explained that the overflows were the result of exceeding the capacity of the transmission line in the Butzner Tract. The diameter of the pipe is 18" and serves approximately 27,000 connections. Spotsylvania was previously aware that they were reaching capacity, and as a result, already planned on replacing this section of the pipe. As an outcome of this meeting, DEQ requested, and Spotsylvania agreed, to submit a report detailing the situation and the proposed solutions.

DEQ staff met with Spotsylvania again on January 11, 2007 to observe the SSOs in Butzner Tract. DEQ staff witnessed multiple manholes where SSOs had occurred and also one manhole that was actively overflowing directly into Massaponax creek.

As a short term measure to provide relief until the long term solution could be implemented, Spotsylvania County began an emergency pump-around on January 12, 2007. However, due to the lack of any measurable difference, the pump around was stopped. Spotsylvania also developed a sampling plan to quantify the impact of the overflow on the water quality in Massaponax Creek and began sampling on January 23, 2007. Additionally, Spotsylvania County installed flow meters used to estimate the flow and time period of overflows. These measures were outlined in the report DEQ received on January 23, 2007.

DEQ met with Spotsylvania again on March 13, 2007 to discuss the report, the viability of other short term fixes and also the permanent solution. Spotsylvania County proposed two short-term fixes to help alleviate the overflows, including diverting some flow from one pump station around the problem area and also raising the elevation of the manholes within the Butzner Tract. The permanent solution to the overflows includes the replacement of the 18" line with a larger diameter pipe. The County originally had plans to complete this further in the future, however, in light of the current situation, they proposed to accelerate that schedule. In order to obtain funding for this project, and ultimately award a contract, they were required to wait until May 2007 when funds were raised through the sale of bonds.

DEQ drafted a Consent Special Order which reflected those items discussed during the March meeting along with additional conditions proposed by DEQ. DEQ submitted the Order to Spotsylvania in April, 2007. DEQ and Spotsylvania met again on July 5, 2007 to discuss the terms of the Consent

Order, at which time Spotsylvania presented additional short-term measures to reduce the overflows until the permanent solution could be implemented. Additionally, they advised DEQ that the timeline for the replacement of the line could be shortened from 365 days from notice to proceed to 180 days from notice to proceed. The Order was revised to include the new timeline and also the additional short-term measures for Spotsylvania County to implement.

Spotsylvania has not reported any additional SSOs since July 30, 2007. Spotsylvania issued a Notice to Proceed to W.C. Spratt to complete the replacement of the line on July 23, 2007 and at the time of this writing is in compliance with the conditions set forth in the Order.

The Consent Order Spotsylvania to (1) complete certain diversions of the wastewater flow from the Butzner Section and evaluate the potential of the Ni River diversion; (2) only allow additional connections within the Butzner Section that would not exceed adequate capacity; (3) develop and submit to DEQ for comment a transmission capacity management system for the Massaponax Interceptor; (4) issue a notice to proceed to the contractor for completing the replacement of the 18" line within the Butzner Section; (5) develop and implement a water quality monitoring program; (6) develop and implement a public awareness plan; (7) continue to properly report SSOs to DEQ including method of detection; (8) submit a report describing the I&I program administered by the County; and (9) perform a SEP consisting of donating money to the Tri-County/City Soil and Water Conservation District for water quality monitoring and non-point source pollution control within Massaponax Creek.

Civil Charge: \$16,000.00. A Supplemental Environmental Project (SEP) consisting of donating funds to the Tri-County/City Soil and Water Conservation District (SWCD) will offset 90% of the recommended civil charge.

B&J Enterprises L.C./Blacksburg Country Club STP, Montgomery County - Consent Special Order w/ Civil Charge: The Blacksburg Country Club STP, owned and operated by B&J Enterprises, L.C. ("B&J"), is permitted under VPDES permit VA0027481. The Permit was re-issued on September 12, 2003 and will expire on September 11, 2008.

The Department issued a Notice of Violation to B&J for failing to submit a written notice and plan of action to ensure compliance with the terms of the permit, as required by the Regulations, when a facility's monthly average flow exceeds 95% of design for three consecutive months. The facility exceeded the monthly average flow for the majority of the current VPDES permit cycle.

Consequently, the collection system owned and operated by B&J has experienced numerous overflows and bypasses which resulted in the release of wastewater to state waters. B&J has received Notices of Violation for these un-permitted discharges to state waters. B&J asserts that I&I or hydraulic overloading is contributing to the exceedances of the system's design capacity and the overflows occurring within the collection system.

Additionally, the Department has issued Notices of Violation to B&J for failing to comply with its VPDES permit's requirements relating to effluent limits, monthly monitoring and reporting requirements, and special studies.

The Order before the Board assesses a civil charge to B&J for violations of its VPDES permit and contains a Schedule of Compliance. The Schedule of Compliance requires B&J to accurately determine the flows at the facility, identify the I&I problems in the collection system, estimate the cost/benefit of potential I&I correction projects, and provide an approvable list of projects to be completed. These projects will attempt to correct the I&I problems in the collection system.

Civil Charge: \$8,278.60

Bassett Mirror Company, Incorporated, Henry County - Consent Special Order w/ Civil Charges: Bassett Mirror Company, Incorporated ("Bassett") operates a sewage treatment plant rated at 0.0035 MGD. During a three-month period in early 2005, Bassett had a series of effluent limit

violations, mostly involving BOD₅ and TSS. DEQ issued a NOV for these violations in June 2005. In a subsequent meeting, Bassett officials explained that they had hired a new consultant and that they had corrected the operational errors that had contributed to the violations. In August 2005, DEQ issued a NOV to Bassett for failure to submit a Storm Water Management Annual Report. In November 2005, DEQ issued a NOV to Bassett for violations of effluent limits for BOD₅, Inst. Cl₂ Tech., and TSS during September 2005. The violations through September 2005 were informally resolved after a meeting in November 2005 in which Bassett explained additional operational improvements that were expected to prevent recurrence of similar violations.

In April 2006, DEQ issued a NOV to Bassett for the following effluent limit violations: BOD₅ (February 2006); Inst. Cl₂ Tech. (January 2006), and TSS (February 2006). Bassett also violated the Inst. Cl₂ Tech. effluent limit in March 2006.

In a series of letters dated between February and April, 2006, Bassett's consulting firm explained that the chlorine violations were caused by excessive hydraulic loading of the plant caused by a malfunctioning water valve in a toilet in the plant and that the TSS and BOD₅ violations in February 2006 were caused by damage to an aeration basin weir plate that was in turn caused by the excessive hydraulic loading in February.

In response to the 2006 violations, Bassett by September 2006 had upgraded the aeration tank air diffuser system, replaced blower motor controls on the aeration basin, added a DO monitor and blower motor speed control to maintain a constant DO level in the aeration basin, replaced the electrical panel board, and added new level switches and HOA controls to the sump pumps. The Order before the Board includes a civil charge for the past violations and a Supplemental Environmental Project ("SEP"). Because the Bassett STP has been operating without serious effluent limit violations since the upgrades were completed in September 2006, no injunctive relief is necessary.

Civil Charge: \$5,600. The total cost of the proposed SEP is not less than \$4,200. Bassett proposes to replace its chlorination and dechlorination systems with UV disinfection. Although the current equipment is meeting permit limits, the new system would eliminate residual chlorine from the effluent. Because the old system allows undissolved fragments of dechlorination tablets to remain in the effluent, the proposed upgrade would also reduce total suspended solids.

Turman Sawmill, Inc., Carroll County – Consent Special Order w/ Civil Charge: Turman Sawmill, Inc. owns and operates a commercial sawmill operation in the Carroll County Industrial Park. The Company is subject to the VPDES General Permit for Stormwater Discharges Associated with Industrial Activity. Coverage for this Facility is under VPDES General Registration Statement No. VAR050098. The permit was reissued on July 1, 2004, and will expire on June 30, 2009. The Registration Statement was received by DEQ May 28, 2004. The Facility is located at 555 Expansion Drive, Hillsville, Virginia.

In response to complaints received by DEQ from Town of Hillsville Water Treatment Plant personnel, on November 6, 2006 DEQ staff investigated the discharge of turbid water from a small branch that flows down a hollow and confluences with Little Reed Island Creek upstream from the water treatment plant intake. Following the small branch back upstream from the confluence onto Company property, it appeared that the turbidity was originating at the Facility's storm water retention pond. The pond discharge was very turbid. It appeared that erosion from soil and rock recently placed upgradient from the pond had washed into and filled the pond during heavy rainfall. The actual level of sediment was not visible due to the turbidity. This "unusual or extraordinary discharge" was not reported to DEQ by Company personnel as required by the Permit. Although the Facility had a stormwater pollution prevention plan in place, and has since updated the plan and instituted documentation of inspections, there was no documentation that the Facility had been conducting regular stormwater inspections at the time of the incident.

In response to additional complaints from Town of Hillsville officials, concerning not only turbidity but also odors of diesel fuel, DEQ staff again visited the Facility the following day, November 7, 2006. DEQ staff met again with Company personnel and discussed the ongoing complaints, including the odors of diesel fuel. Company personnel stated that the fueling area sump was being cleaned and that fuel accidentally spilled during equipment fueling may have accumulated in the sump and been discharged during heavy rainfall. Investigation of the sump showed a pipe exiting the sump. It is believed that the pipe may have discharged to a storm water catch basin outside the fueling area that discharges to the storm water retention pond. The fueling area contained two off-road diesel tanks, located within a concrete walled containment area. No discharge pipes were noted in the containment structure, and no leaks or problems were noted with these tanks. The storm water retention pond appeared much as it had the previous day, except for the presence of a heavy oil sheen covering the surface and a strong diesel fuel odor. The discharge from the storm water retention pond was very turbid and contained both an oil sheen and an odor of diesel fuel. Analysis of water samples taken of the storm water retention pond discharge on November 7, 2006, resulted in a Total Suspended Solids ("TSS") value of 1372 mg/l, and a Total Petroleum Hydrocarbon ("TPH") value of 182 mg/l for diesel fuel. It appeared likely, due to the amount of product present, that a significant diesel fuel spill occurred between the two inspections, rather than any disturbance and release of product due to cleaning of the fuel area sump. The "unauthorized discharge" of diesel fuel was not reported to DEQ by Company personnel as required by the Permit and by statute. Pads and booms were installed on both the unnamed tributary and Little Reed Island Creek to contain and collect as much product as possible. A consulting firm was hired to conduct cleanup and removal of free floating product and contaminated water in the stormwater management pond. Soil samples were taken in the area of the fueling pad when concrete was torn out and the fueling area reworked. The sump area was eliminated in the new concrete pad. DEQ has received the disposal manifest for the drums of soil removed, and has closed the incident investigation of the diesel fuel spill. Also, a new, larger stormwater retention pond, equipped with a standing riser pipe, has been constructed since the incidents in question.

DEQ staff conducted a stormwater general permit technical inspection at the Facility on January 25, 2007. During the inspection, a discharge of industrial process water (condensate from a steamer used to darken walnut lumber), was identified as the source of the stormwater sedimentation pond's dark brown color. This same color was also noted in the discharge from the pond (permitted outfall 003). Steamer condensate was discharging onto the ground and entering a storm drain, then flowing to the stormwater pond. Volume of condensate was unknown, but not large. The "unauthorized discharge" of steamer condensate was not reported to DEQ by Company personnel as required by the Permit. Although the company had instituted documentation of stormwater inspections, this discharge was not noted and reported as a result of those inspections.

The two off-road diesel tanks noted above were each larger than 660 gallons, thereby requiring registration. Neither tank was registered at the time of the November, 2006 investigations. A DEQ Registration Form 7540 has since been received by DEQ for registration of both tanks. The DEQ Registration Form 7540 submitted indicated that each of the two tanks has 16,000 gallons capacity. The total on-site aggregate capacity was therefore 32,000 gallons, which requires that the facility have an approved Oil Discharge Contingency Plan ("ODCP"). No ODCP was available at the time of the November, 2006 investigations or the January 25, 2007 technical inspection. One tank has since been permanently closed, which removes the requirement that an ODCP be submitted and approved.

There was no documentation on site at the time of the technical inspection to show that an annual comprehensive site compliance evaluation, annual benchmark monitoring or employee training had been conducted.

On February 1, 2007, an NOV was issued to the Company for the alleged violations. DEQ and Company officials met February 16, 2007 to resolve the apparent violations. At Turman Sawmill, Inc.'s request, DEQ staff and Turman personnel met on May 21, 2007 to discuss the draft consent order which had been sent to the Company.
Civil Charge: \$19,621

Henrico County - Amendment to Consent Special Order : Henrico County owns and operates a wastewater treatment facility in Varina, Virginia. This facility is the subject of VPDES Permit No. VA0063690, which allows Henrico County to discharge treated wastewater into the James River. The Department issued a Consent Order to Henrico County on January 7, 2003, to address sanitary sewer overflows (SSO) in its sewage collection system and permit effluent limit violations at the Henrico County water reclamation facility. Henrico County has completed all of the corrective actions required to address the effluent violations. To address the sanitary sewer overflows, the Order required the submittal of a formal operation and maintenance manual for the sewer collection system and a five year schedule for the completion of previously identified inflow and infiltration (I&I) projects. The Order was amended on March 17, 2005, to include the Fourmile Creek project which was necessary after Tropical Storm Gaston took out a road and sewer line in Richmond. The only projects remaining in the March 17, 2005, Amended Order are the Gillies Creek Sewer Pump Station Project and the Fourmile Creek Project.

On June 11, 2007, Henrico County requested a time extension to complete the Gillies Creek Sewer Pump Station Project, due to delays caused by damages from Tropical Storm Gaston, and to add the Morningside Avenue sewer rehabilitation project to the current Order. On November 12, 2006, Henrico County reported a 275,000 gallon SSO at Morningside Avenue caused by inflow and infiltration (I&I) after a heavy rain. The County responded during the storm with emergency crews, preventing much of the discharge from impacting Horsepen Branch. The County also voluntarily accelerated its schedule for the 7 million dollar sewer line replacement project on Morningside Avenue. This Order Amendment requires Henrico County to complete the Department-approved I&I project known as Gillies Creek on or before December 15, 2007, complete the Department-approved I&I project known as Morningside Avenue on or before September 1, 2008, and, complete the Department-approved I&I project known as Fourmile Creek on or before August 15, 2015.

Powhatan County, Dutoy Creek WWTP - Consent Special Order w/ Civil Charges: Powhatan County owns and operates the Dutoy Creek Wastewater Treatment Plant (WWTP). It was built in 2002 as a regional treatment plant with new technology to treat the high school wastewater discharge, and was designed for future local growth. Due to high levels of zinc in the well water that supplies the school, the over-designed plant and low strength of the influent flow, the County has experienced difficulties operating the plant. In April 2004, the Department issued a NOV to the County for the failure of the Dutoy Creek WWTP to comply with TSS, CBOD, DO, Cu and Zn effluent limits in the Permit. To address the violations, the County hired a consultant to assist in adjusting the system and to maximize the treatment efficiency. The plant continued to experience problems with high metals and treatment efficiency. Between October 2004 and April 2007, the Department issued seven NOVs for failure to meet Permit effluent limits, including TKN, TSS, CBOD, DO, Cu and Zn, and for failure to report an effluent limit parameter.

Powhatan County has failed to consistently comply with the effluent limitations in the Permit. The Order requires that the County secure the manhole covers to prevent unpermitted discharges to the sewage collection system; comply with interim effluent limits as designated; complete the switchover to the Chesterfield County potable water supply to reduce metals violations; study and evaluate the effects of changing the water supply and testing any additional measures that may be needed to come into compliance with the Permit; and if the measures taken have not been successful in achieving

compliance with the Permit limits, provide a plan and schedule to implement additional measures to come into full compliance. The Order also requires the payment of a civil charge.
Civil Charge: \$17,700

Omega Protein, Inc., Northumberland County - Consent Special Order w/Amended Civil

Charge: Omega Protein owns and operates a wastewater treatment facility serving a fish processing plant in Northumberland County, Virginia. The Department issued a Consent Order to Omega on September 6, 2006, for cyanide violations at outfall 006. This Order is currently active with a requirement to upgrade the facility to meet cyanide permit limits. On November 14, 2006, the Department issued an NOV to Omega for failure to meet the Permit's effluent limit for ammonia and failure to submit a quarterly progress report. Omega stated that the ammonia violations are the result of a power outage and delays in acquiring parts needed to repair an ammonia stripper.

At the June 27, 2007 State Water Control Board meeting, a proposed Consent Order was presented to resolve the violations cited in the November 2006 NOV. The proposed Order required corrective action and a \$12,600 civil charge. Based on Omega Protein's enforcement history, the Board rejected the proposed Order due to an inadequate civil charge. In the revised Order, civil charges were assessed per occurrence rather than per month. In addition, the degree of culpability was raised from medium to high. The revised civil charge is \$27,900. The originally proposed Order required that Omega install a generator to keep aerators powered in the event of a power outage and expand the spare parts inventory to include enough parts to effect emergency repairs within two days. Omega has since completed these corrective actions; therefore these requirements are not included in the revised order.

Civil Charge: \$27,900

Mr. J.E. Liesfeld, Jr., Henrico County - Consent Special Order w/ Civil Charges: Mr. Liesfeld was issued a VWP Permit in August 2001 for the construction of the Gillies Creek Recycling Center in Henrico County. The construction of the recycling center proposed to impact approximately 2.7 acres of wetlands on the property. To mitigate for the wetland impacts, the permit required the creation of 5.053 acres of wetlands on site no later than 6 months after the authorized impacts to wetlands occurred. The impacts to the wetlands have occurred, and the recycling center is operational, but the wetland mitigation is not complete. The Department issued a Notice of Violation (NOV) to Mr. Liesfeld on November 30, 2006 citing failure to complete the wetland mitigation site; failure to submit annual construction monitoring reports; failure to submit wetland mitigation monitoring reports; and failure to submit a complete application for permit reissuance.

The order requires that Mr. Liesfeld submit a complete application for re-issuance of the VWP Permit; complete creation of the wetland mitigation sites on the Gillies Creek Recycling Center property; submit all wetland construction and mitigation monitoring reports as required by the Permit; and pay a civil charge.

Civil Charge: \$25,350

Kernstown Commons Commercial Development Project/Orange Partners, LLC, Frederick County - Consent Special Order with a Civil Charge:

Orange Partners, LLC owns and is developing the Kernstown Commons Commercial Development Project, a 31.5-acre tract being developed as a retail center south of Winchester, bounded by Routes 37 and 11 and Interstate 81 near Kernstown in Frederick County. By letter dated June 6, 2006, Wetland Alternatives, a consultant retained by Orange Partners, LLC, notified DEQ of apparent unauthorized impacts to unnamed tributaries to Opequon Creek associated with the development of the site. On June 30, 2006, DEQ staff and the U.S. Army Corps of Engineers (ACOE) inspected the commercial development site. During the inspection, staff observed that approximately 1,225 linear feet of streambed had been impacted by

development activities, including: the placement of upland fill and culverts in the stream channel; the cutting of stream banks below the ordinary high water mark; and the construction of an in-stream sedimentation basin. The activities noted above resulted in discharges of pollutants to state waters and in alteration of the physical, chemical or biological properties of state waters. Orange Partners, LLC had not applied to DEQ for a Virginia Water Protection Permit (“VWPP”) for the Kernstown Commercial Development Project.

DEQ issued a NOV on July 6, 2006, to Orange Partners, LLC for conducting in-stream construction on two intermittent stream sections without a permit.

On August 8, 2006, representatives of Orange Partners, LLC met with DEQ in an informal conference to discuss the violations cited in the NOV. During this meeting, DEQ requested a plan and schedule of corrective actions to address the apparent violations.

On October 26, 2006, representatives of Orange Partners, LLC met with DEQ to discuss the NOV and site mitigation. This meeting included discussions of whether a deed and easement for highway ditch maintenance would affect site mitigation. DEQ reviewed the deed and advised Orange Partners, LLC that the deed did not negate the need for mitigation.

On January 31, 2007, DEQ received Orange Partners, LLC’s Stream Mitigation Proposal (“SMP”) to address the unauthorized stream work and provide mitigation/compensation for the stream channel impacts and the establishment of riparian buffers protected through an easement to protect the mitigation area. The SMP’s required stream bank enhancements, establishment of riparian buffers and installation of livestock exclusion along a reach of the Opequon Creek will improve the water quality. The livestock use and stream impacts associated with agricultural activity along Opequon Creek have resulted in stream impacts such as sediment deposition, excess nutrient and bacterial levels. The mitigation/compensation area is contained within the Opequon Creek Watershed TMDL Implementation Plan. The SMP is consistent with the goals and objectives of the TMDL Implementation Plan. The SMP has been incorporated into Appendix A of the Order.

Note: Enforcement action to address the situation was delayed because of the company’s exploration of potential mitigation sites, and then its pursuit of legal advice on the matter.

The proposed Order, signed by Orange Partners, LLC on June 29, 2007, would require Orange Partners, LLC to provide mitigation/compensation for the impacts to the stream and place the mitigation area into a protective easement. The Order would also include a civil charge. Civil Charge: \$15,600

Lexington Golf and Country Club, Inc., Rockbridge County - Consent Special Order with a civil charge and a SEP: Lexington Golf and Country Club (“Lexington GCC”) owns and operates a golf club in Rockbridge County, Virginia.

On August 3, 2006, DEQ received a pollution complaint regarding a fish kill on Woods Creek in Lexington, Virginia. On August 3, 2006, DEQ staff conducted an initial fish kill investigation during which staff observed dead fish. During the investigation, DEQ staff was informed that Lexington GCC personnel had performed a final rinse of a chemical (fertilizer/herbicide/fungicide) application tank on the Facility’s parking lot for the maintenance/equipment shed. DEQ staff observed puddles in that parking lot and the probable path the rinse water product took to enter Woods Creek. Sampling of a parking lot pothole’s contents showed a chlorothalonil (a fungicide) concentration of 42,000 ppb, total nitrogen concentration of 1680 ppm, and ammonia nitrogen concentration of 102 ppm. In-stream sampling at the upper end (<100 feet downstream of the discharge point) of the fish kill showed a chlorothalonil concentration of 520 ppb, which is a sufficient concentration to cause fish mortality. The sampling upstream of the spill did not demonstrate any significant concentrations of any of those same products. In-stream sampling also showed that D.O. got progressively lower (i.e., worse) downstream of the discharge point, ultimately resulting in D.O. that was low enough to kill fish. Distressed fish gasping at the water’s surface were noted alongside dead fish.

On August 4, 2006, DEQ staff continued the fish kill investigation and count on Woods Creek. DEQ staff determined that 2,636 fish were killed on a stream reach of approximately 100 meters. No dead fish were found upstream of where the spill entered Woods Creek at the Facility.

DEQ issued an NOV on September 27, 2006, to Lexington GCC for an unpermitted discharge to State waters with a fish kill and failure to properly report the spill within 24 hours.

On October 19, 2006, DEQ met with Lexington GCC to discuss the NOV and resolution of the violations. This meeting included discussions of Lexington GCC's chemical handling practices, corrective actions taken to date to prevent spills from reaching State waters, and the need for a plan and schedule of corrective actions to ensure that violations do not reoccur.

On December 1, 2006, DEQ received Lexington GCC's written plan and schedule of corrective actions, sections of which have been incorporated into Appendix A of this Order.

The proposed Order, signed by Lexington GCC on June 28, 2007, would require Lexington GCC to implement a set of corrective actions to prevent any pesticide spills from reaching the stream. The Order would also include a civil charge.

Civil Charge and SEP: \$13,000 The SEP to be performed by Lexington GCC is delivery of a check for \$11,700 to the Director of Planning and Development of the City of Lexington, to be used for the construction of stream restoration projects on Woods Creek and/or Willow Spring Creek in Lexington, Virginia. The stream restoration work is to be completed by June 15, 2008.

F.L. Hatcher and Son, Inc., - Consent Special Order w/ Civil Charges: F.L. Hatcher and Son, Inc. ("Hatcher") operates a bulk terminal facility located in Roanoke, VA. The facility consists of one underground storage tank ("UST") and four above ground storage tanks ("ASTs").

On January 10, 2007, Department staff conducted a formal inspection of the UST and ASTs located at the facility. In addition, Department files and UST and AST registration documents were reviewed.

On February 9, 2007, the Department issued NOV No. 07-02-WCRO-001 to F.L. Hatcher & Son, Inc. for four UST compliance issues and NOV No. 07-02-WCRO-002 to F.L. Hatcher & Son, Inc. for twelve AST compliance issues.

Hatcher worked with the Department to correct the UST and AST compliance issues at the facility and all compliance issues with the exception of the compliance issues addressed in the Schedule of Compliance were corrected. The Consent Special Order requires Hatcher to pay a civil penalty and complete the four items in the Schedule of Compliance.

Civil Charge: \$10,780

Huff Petroleum Company, Inc. And White Dublin, L.L.C D/B/A Express Stop # 2; White Orange, L.L.C D/B/A Express Stop #3; White/Pulaski-Main, L.L.C D/B/A Express Stop #4; White 99, L.L.C D/B/A Express Stop #5; White Newbern, L.L.C D/B/A Express Stop #6; White/Christiansburg-Skyview, L.L.C D/B/A Express Stop #8; Cedar Valley General Store, L.L.C D/B/A Express Stop #9 Nscs, L.L.C. D/B/A Northside Chevron; Roanoke, Montgomery and Pulaski Counties - Consent Special Order w/ Civil Charge: The eight facilities listed above operate as gasoline service stations. All the facilities are regulated under 9 VAC 25-580-10 et seq. (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) and 9 VAC 25-590-10 et seq. (Petroleum UST Financial Requirements).

Department compliance staff conducted compliance inspections of the aforementioned facilities in 2002 and 2003. As a result of the compliance inspections, the Department issued Notices of Violation to the aforementioned LLCs regarding areas of non-compliance.

Department compliance staff attempted to work with the responsible parties to achieve compliance with the areas of non-compliance but eventually referred the aforementioned facilities to enforcement when all the areas of non-compliance were not addressed sufficiently.

Department enforcement staff attempted to work with the responsible parties to achieve compliance in the remaining areas of non-compliance. Beginning in February 2006 and ending in December 2006, the responsible parties resolved all areas of non-compliance.

The responsible parties have resolved all the areas of non-compliance associated with operation and maintenance of the facilities and demonstrated compliance with the financial assurance requirements. The Consent Special Order requires the responsible parties to pay a civil penalty for the deficiencies noted in the Notices of Violation and fund a Supplemental Environmental Project. Civil Charge and SEP: \$12,000 with \$9,000 being applied to a SEP for the New River Watershed Roundtable to fund several projects to improve water quality within the New River watershed. The projects may include the installation of Best Management Practices ("BMPS"), installation of stormwater management projects, water quality monitoring such as ColiScan, the installation of Pet waste bags in parks, and/or other water quality improvement projects. A small percentage of the funds will be used for the operation and administration of the Roundtable.

Development of Virginia's FY 2008 Clean Water Revolving Loan Funding List: Title VI of the Clean Water Act requires the yearly submission of a Project Priority List and an Intended Use Plan in conjunction with Virginia's Clean Water Revolving Loan Fund (VCWRLF) Federal Capitalization Grant application. Section 62.1-229 of Chapter 22, Code of Virginia, authorizes the Board to establish to whom loans are made, loan amounts, and repayment terms. In order to begin the process, the Board needs to consider its FY 2008 loan requests, tentatively adopt a FY 2008 Project Priority List based on anticipated funding, and authorize the staff to receive public comments.

On June 1, 2007 the staff solicited applications from the Commonwealth's localities and wastewater authorities as well as potential land conservation applicants and Brownfield remediation clientele. July 13, 2007 was established as the deadline for receiving applications. Based on this solicitation, DEQ received twenty-eight (28) wastewater improvement applications requesting \$429,135,465 and one Brownfield application for \$1,000,000 in loan assistance by the required deadline.

Funding Availability for FY 2008: The federal appropriation for the nation's Clean Water State Revolving Funds for FY 2008 has not been approved yet but Virginia's share is expected to be in the range of \$14-24 million. State matching appropriations, along with the accumulation of monies through loan repayments, interest earnings, and de-allocation from leverage accounts should make an additional \$70+ million available for funding new projects. These funds, in accumulation, will result in approximately \$90 million becoming available during the 2008 funding cycle. Based on the large amount of applications received relative to available resources, it will be necessary to leverage the Fund this year. Through leveraging, available cash is placed in a debt service reserve account, and is leveraged on the bond market to create additional funds for projects.

In anticipation of the large demand for VCWRLF funding due to the recently adopted regulations related to restoration of the Chesapeake Bay, we have met several times with the Virginia Resources Authority and their financial advisors regarding the funding capacity of the program and the ability of the Fund to meet a large portion of this anticipated demand. From these detailed discussions, a capacity model of the Fund has been developed and analyzed. Results of this analysis indicates that, through the aggressive use of leveraging, the VCWRLF could provide funding in the range of \$225 million per year over the next 5 years and still be sustainable into the future.

The staff believes it is prudent to move forward with development of Virginia's proposed FY 2008 clean water revolving loan funding list based on the results of this capacity evaluation and the maximum utilization of the Fund. Final Board approval of the list will not be requested until December.

Application Evaluation: All 28 wastewater applications were evaluated in accordance with the program's "Funding Distribution Criteria" and the Board's "Bypass Procedures". In keeping with the

program objectives and funding prioritization criteria, the staff reviewed project type and impact on state waters, the locality's compliance history and fiscal stress, and the project's readiness-to-proceed. The one Brownfield remediation application was reviewed with other DEQ staff and it was verified that it was a high quality and eligible water quality project.

The staff reviewed each project's anticipated construction schedule to determine if the proposed project was expected to move to the construction stage during calendar year 2008. The staff determined that three of the FY 2008 applications (Town of Luray, Town of Berryville, and the Scott County Public Service Authority) would not proceed to construction until at least calendar year 2009. The Board's by-pass criteria provide for these projects to be bypassed during 2008 and reconsidered in subsequent funding cycles.

In the interest of assisting the maximum number of applicants with Fund resources, we also looked closely at the larger projects with multi-year construction schedules that could be successfully funded in phases. Staff determined that seven of the applicants (Harrisonburg-Rockingham Regional Sewer Authority, City of Richmond, Alleghany County, HRSD/York STP, Prince William County Service Authority, City of Alexandria, and Arlington County) could be partially funded to meet cash flow needs without disrupting construction schedules, allowing more applicants to be addressed this year. Five of these applicants have already received partial phased funding in previous funding cycles.

Two applications (Town of Timberville and Stafford County/Aquia) withdrew their applications during the review period. Through discussions with the Tazewell County Public Service Authority regarding their two applications it was mutually determined most appropriate to move forward with the financing of their Baptist Valley project at a slightly reduced funding level and bypass their Divides project until a later funding cycle.

The four applicants at the bottom of the funding list (Bristol Virginia Utilities, Town of Independence, Town of Orange, and Town of Berryville) are the lowest priorities based on the Board's ranking criteria, are generally of minimal or no direct value to water quality improvement, and are not being recommended for funding due to our limited resources.

The funding list and associated recommendations are based on the best information and assumptions currently available to staff from the applications received and discussions with DEQ and the Virginia Resources Authority. A number of activities will be occurring over the next several months to help clarify these factors including the following: (1) DEQ will hold individual meetings with targeted recipients to verify the information in the applications, especially schedules; (2) negotiations between loan recipients and DEQ Chesapeake Bay Program staff regarding Water Quality Improvement Fund grants to associated loan recipients will better determine the local share loan needs of many of the 2008 applicants; and (3) finalization of the federal budget for 2008 will determine the federal appropriation for the Clean Water SRF. Due to the complexities, challenges, and assumptions related to of the 2008 priority list development, the staff is recommending that the list be tentatively adopted, subject to the verification of information in the loan applications (especially schedules) and the availability of funds from the federal appropriations and the 2008 leverage.

Conclusion: The VCWRLF program solicited applications for FY 2008 funding assistance and evaluated 29 requests totaling \$430,135,465. After a preliminary evaluation of funding availability, priority consideration, the review of anticipated construction schedules, and projected cash flow needs, Virginia's FY 2008 Project Priority List includes 19 projects totaling \$223,232,181. Based on current and projected cash resources, and considering the additional funds that can be made available through leveraging, the Board should have sufficient funds available to honor these requests at the amounts shown through a leveraged loan program.

Staff Recommendations: The staff recommends that the Board target the following localities for loan assistance, subject to the verification of the information in the loan applications (especially schedules)

and the availability of funds, and authorize the staff to present the Board's proposed FY 2008 loan funding list for public comment.

1	City of Lynchburg	\$12,350,000
2	Harrisonburg-Rockingham RSA	\$20,000,000
3	Town of Colonial Beach	\$2,970,000
4	City of Richmond	\$13,000,000
5	City of Richmond	\$9,000,000
6	Western Virginia Water Authority	\$1,969,000
7	Alleghany County	\$7,608,595
8	Maury Service Authority	\$6,075,605
9	HRSD/York STP	\$25,000,000
10	Prince William Service Authority	\$35,000,000
11	City of Alexandria	\$15,000,000
12	Town of Broadway	\$3,433,536
13	Arlington County	\$50,000,000
14	Stafford County/Little Falls Run	\$5,315,755
15	Tazewell County/Baptist Valley	\$8,000,000
16	Town of Big Stone Gap	\$3,051,300
17	Fauquier County	\$1,258,390
18	City of Newport News	\$3,200,000
19	Cafferty/ARC Property	\$1,000,000
Total Request		223,232,181